



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
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Cox et al. )  
)  
Serial No.: 10/775,746 ) Examiner: William L. Miller  
)  
Group Art Unit: 3677  
Filed: February 10, 2004 )  
)  
For: Method for Customizing a )  
Burial Vault Carapace )

**AFFIDAVIT UNDER 37 C.F.R. § 1.132**

I, Marty Jay Cox, a citizen of the United States of America residing at 5680 S. Bogey Drive, Polo, Illinois 61064, do hereby declare that:

1. I am a coinventor of the invention claimed in U.S. Patent Application No. 10/775,746.

2. Before I conceived of the invention claimed in the patent application, I was employed by Professional Graphics, Inc. as a pre-press and printing broker. I had no prior experience running a business, selling or marketing products or acting as an officer of a company. Christie Marie Cox, coinventor of the invention, was employed as a funeral director and embalmer. Mrs. Cox also had no prior experience running a business, selling or marketing products or acting as an officer of a company.

3. Mrs. Cox and I realized that the burial receptacle, such as a vault, is a cold and impersonal container into which the deceased is placed. We realized that the burial receptacle lacked continuity with the funeral, which is largely personalized with artifacts and pictures of the deceased and his or her family.

4. To solve this problem, Mrs. Cox and I conceived of the claimed invention, which in its commercial embodiment takes the unadorned receptacle, such as a burial vault or urn or other respository, and makes it appealing and personalized for each funeral and each deceased. It brings color and life through adornment to that which was once, plain and ordinary.

5. After we conceived of the claimed invention, Mrs. Cox and I worked from our home to develop the invention and founded our company Legacy Prints, Inc. I am the President of Legacy Prints and Mrs. Cox is the Secretary (co-owner). The company has four (4) employees.

6. In October 2003, we introduced our invention at the National Funeral Directors Association (NFDA) convention for all funeral directors nationwide. Wilbert Funeral Services, a leading vault manufacturer, deemed it a marketable product and wanted to sell it in the United States and Canada. We have been supplying products embodying our invention to Wilbert. This invention was the only one of its kind at the NFDA convention and we received very promising feedback on the invention.

7. In 2003, our company, Legacy Prints, sold 3,583 units for placement on burial receptacles.

8. In October 2004, I noticed at the NFDA convention that Doric Vaults had copied our invention and was selling it. Photographs from that convention and the Doric Valuts exhibit are attached hereto as Exhibit 1.

9. By the end of 2004, Legacy Prints had sold 5,168 units for placement on burial receptacles.

10. In the February 21, 2005 edition of *Newsweek*, our invention was covered in the Periscope section. *Newsweek* noted that, "Customizing burial vaults...has become a popular way to pay tribute...." A copy of the article is attached hereto as Exhibit 2. Ray Simon is an artist that create the artist design for the prints used in connection with the products we supply to Wilbert Funeral Services.

11. In October 2005, I noticed at the NFDA convention that Doric Vaults was still selling copies of our invention (see Exhibit 3). In addition, another company, Trigard, had started selling copies of our invention. Attached as Exhibit 4 is a copy of a recent Trigard website page indicating that they are now selling the invention as well. We have since learned that even monument companies are copying our invention.

12. The November 26, 2004 edition of the *Omaha World-Herald* noted in "Burial Vault Artwork Adds Personal Touch" that the invention was a "relatively new practice in the funeral industry" but that "most vault makers now offer the option." A copy of the article is attached hereto as Exhibit 5. This article, too, mentions that Ray Simon is the artist that designs the prints used on the products we supply to Wilbert Funeral Services. Exhibit 5.

13. By the end of 2005, we sold 5,748 units for placement on burial receptacles.

14. In 2006, we sold 7,300.


15. In October 2006, Wilbert Funeral Services made the invention a "standard offering" on their vaults. This means, as of 2007, it will be offered on every vault Wilbert offers

for sale. In addition, Wilbert has changed the design of its lowering mechanisms so that the mourners can better see at the graveside the personalization of burial receptacles such as vaults.

16. The tremendous commercial success of our product can be seen by the substantially increasing units sold over the years, the copying of our product as time went on, Wilbert making the invention a standard offering and the changing, by Wilbert, of its design for lowering mechanisms to better accommodate the invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 6-28-07

  
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Marty Jay Cox

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